

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

In the Matter of the:

CURCIO SCRAP METAL, INC. SITE

Consolidated Edison Company of New York, Inc.

Respondent

Proceeding Under Sections 104, 106(a), 107
and 122 of the Comprehensive
Environmental Response, Compensation
and Liability Act, as amended,
42 U.S.C. §§ 9604, 9606(a), 9607 and 9622.

Second Amendment to
Administrative
Order On Consent

U.S. EPA Index No.
CERCLA-02-99-2026

I. INTRODUCTION AND JURISDICTION

1. Administrative Order on Consent, Index No. 02-99-2026, ("Order") was entered into between the United States Environmental Protection Agency ("EPA") and Consolidated Edison Company of New York, Inc. (hereinafter referred to as "Respondent") and became effective September 27, 1999. The Order requires Respondent to perform a groundwater monitoring program at the Curcio Scrap Metal, Inc. Superfund Site ("Site") located at 416 Lanza Avenue, Saddle Brook Township, Bergen County, New Jersey. The Order also required the Respondent to reimburse EPA for certain past costs incurred by EPA in connection with the Site.

2. The Order was issued under the authority vested in the President of the United States by Sections 104, 106(a), 122(a), 122(d)(3) and 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9606(a), 9622(a), 9622(d)(3) and 9622(h)(1). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was redelegated by the Regional Administrator of EPA Region 2 to the Director of the Emergency and Remedial Response Division by Order R-1200 on November 23, 2004.

3. The Order required the Respondent to conduct the groundwater monitoring program for a period of five years as directed by a Statement of Work that is incorporated by reference into the Order.

4. On April 29, 2005, EPA and the Respondent entered into an Amendment to the Order that required the Respondent extend the groundwater monitoring program for an additional five years in accordance with a Modified Statement of Work attached to the Amendment to the Order.

5. EPA has determined that additional groundwater monitoring is needed. Accordingly, this Second Amendment to the Order ("Second Amendment") is made and entered into by EPA and Respondent for the purpose of further extending the duration of the groundwater monitoring program. The terms and conditions of the Order are neither altered nor affected by this Second Amendment, except as expressly provided below. Respondent consents to enter into this Second Amendment and agrees not to contest EPA's jurisdiction to enter into this Second Amendment or to implement or enforce its terms.

II. AMENDMENT

6. The Order is hereby amended by the Second Modified Statement of Work, which is attached to this Second Amendment as Attachment I. The terms and conditions of the Statement of Work are neither altered nor affected by the Second Modified Statement of Work, except as expressly provided in the Second Modified Statement of Work. The Second Modified Statement of Work is incorporated by reference into this Second Amendment and is enforceable under this Second Amendment.

7. The Order is further amended by the following:

a. The first sentence of Paragraph 47 of the Order is replaced by the following sentence:

All validated results of sampling, tests, modeling or other data generated by Respondent, or on Respondent's behalf, during implementation of this Second Amendment, shall be submitted to EPA in the next bi-annual report as described in the Second Modified Statement of Work.

b. Paragraph 79 of the Order is replaced by the following new Paragraph 79:

79. Additional Payment

a. Within thirty (30) days of the effective date of this Second Amendment, Respondent shall remit payment to EPA in the amount of \$95,141.50 in reimbursement of the past costs set forth in the EPA SCORPIOS Report, dated September 7, 2010, and attached to this Second Amendment as Attachment II. In the event that Respondent fails to remit the required payment within such time, Respondent shall pay interest on any amount overdue. Such interest shall begin to accrue on the first day

that the required payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous Substances Superfund, in accordance with Section 107(a) of CERCLA, 42 U.S.C. 9607(a).

b. Respondent shall make the required payment via Electronic Funds Transfer ("EFT"), along with the following information, to EPA's Account with the Federal Reserve Bank of New York as follows:

- i. Amount of Payment
- ii. Title of Federal Reserve Bank account to receive the payment:
EPA
- iii. Address of Federal Reserve Bank account to receive the payment:
33 Liberty Street
New York, NY 10045
SWIFT Address: FRNNYUUS33
- iv. Account code for Federal Reserve Bank account receiving the payment: 68010727
- v. Federal Reserve Bank ABA Routing Number: 021030004;
- vi. Name of Party making payment;
- vii. A message in Field Tag 4200 of the EFT that reads "D 68010727 Environmental Protection Agency"
- vii. Site/Spill Identifier Number: 02-P7
- viii. The case docket number: 02-99-2026

c. To ensure that a payment is properly recorded, a letter should be sent, within seven working days of the EFT, which references the date of the EFT, the payment amount, the name of the Site, the case docket number, and the name and address of the party making payment to the United States, to the following:

New Jersey Remediation Branch
Emergency and Remedial Response Division
U.S. Environmental Protection Agency, Region 2
290 Broadway, 19th Floor
New York, New York 10007-1866
Attention: Curcio Scap Metal Site Remedial Project Manager

New Jersey Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866
Attention: Curcio Scap Metal Site Attorney

U.S. Environmental Protection Agency
Attn: Richard Rice
26 W. Martin Luther King Drive
Cincinnati Finance Center, MS: NWD
Cincinnati, Ohio 45268
email: AcctsReceivable.CINWD@epa.gov and
rice.richard@epa.gov

- d. The total amount to be paid pursuant to this Paragraph by the Respondent shall be deposited in the Curcio Scrap Metal, Inc. Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

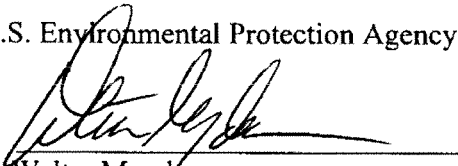
III. EFFECTIVE DATE

8. The effective date of this Second Amendment shall be the day it is signed by the Director, Emergency and Remedial Response Division, EPA Region 2.

It is so ORDERED and Agreed:

For: U.S. Environmental Protection Agency-Region 2

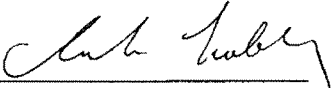
By:


Walter Mugdan
Director
Emergency and
Remedial Response Division

Date: April 20, 2011

THE UNDERSIGNED Respondent enters into this Second Amendment to Administrative Order on Consent, Index No. 02-99-2026, relating to the Curcio Scrap Metal, Inc. Superfund Site located in Saddle Brook Township, New Jersey.

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

By: 
(Signature)

April 15, 2011
(Date)

CHANDOH LUBLING
(Printed Name of Signatory)

VICE PRESIDENT, REGULATORY SERVICES
(Title of Signatory)

ATTACHMENT I

CURCIO SCRAP METAL, INC. SUPERFUND SITE

SECOND MODIFIED STATEMENT OF WORK

The Statement of Work attached to Administrative Order on Consent, U.S. EPA Index No. CERCLA-02-99-2026 ("Order") is amended as follows:

- a. The second and third sentences of Paragraph I of the Statement of Work are replaced by the following sentences:

Samples will be collected and analyzed for target compound list ("TCL") Volatile Organic Compounds ("VOCs"), and reduced target analyte list ("TAL") metals (aluminum, arsenic, lead, and manganese) in accordance with the GMPWP for a period of five (5) years from the effective date of this Amendment to the Order. Respondent performed a sampling event in August 2010 as part of the initial bi-annual sampling period which commenced in 2008. Thereafter groundwater sampling will be performed bi-annually by Respondent. The next sampling event will take place in 2012. Based on analyses of sampling results, provided for in Paragraph IV.C.3. of this Second Modified Statement of Work, the scope and frequency of sampling events of the ongoing groundwater monitoring program may be modified at EPA's discretion.

- b. Paragraph IV.A.2.a. of the Statement of Work is replaced by the following paragraph:

Sampling of all existing on-Site overburden monitoring wells. These wells will be sampled and analyzed for all TCL VOCs, and reduced TAL inorganic compound parameters (aluminum, arsenic, lead, and manganese) on a bi-annual basis. Bedrock wells will be decommissioned by Respondent in accordance with NJDEP policy, as stated in EPA's letter to Respondent dated August 3, 2010. Respondent will submit to EPA a technical memorandum and schedule for these activities by May 1, 2011. Based upon sampling data, elements of this monitoring scheme, including the number of wells, may be revised upon EPA approval, or will be revised upon EPA's request. This could include a reduction in the number of wells, in the frequency of sampling, or in the scope of the sample analysis in the monitoring program as well as the installation of additional wells, if deemed necessary by EPA.

- c. Paragraph IV.C.3. of the Statement of Work is replaced by the following:

Beginning in 2010, Respondent shall submit a bi-annual report every two years based on sampling results collected for each two-year period of groundwater monitoring. Within sixty (60) calendar days of the effective date of this Order Respondent shall submit (1) a revised 2007 Annual Groundwater Monitoring Report, as stated in EPA's letter to Respondent dated August 3, 2010, and (2) the 2008 Annual Groundwater Monitoring Report. In addition, a Second Five Year Groundwater Monitoring Report shall be submitted to EPA by July 1, 2011, and provide trend analysis for the previous five years (2005 through 2010) of groundwater data. EPA will review and comment on this report consistent with Paragraphs 34 through 38 of the Order.

- e. Paragraph IV.D.1.b. of the Statement of Work is replaced by the following:

Respondent has conducted groundwater monitoring at the Site for a period of fifteen (15) years.

- f. Paragraph IV.D.3 of the Statement of Work is replaced by the following:

If Respondent has not conducted groundwater monitoring at the Site for a period of fifteen (15) years before submitting the Notice of Completion and Final GMP Report to EPA, sampling will continue until EPA completes the review of the Notice of Completion and Final GMP Report and approves the Final GMP Report in writing.

